

RULE ANALYSIS

Introduction: THE AMENDMENTS ARE SUBMITTED TO THE BOARD FOR CONSIDERATION AS ADOPTED RULES

Short Title: Continuing Education

Rule Numbers: §295.8

Statutory Authority: Texas Pharmacy Act, Chapter 551-566 and 568-569, Occupations Code:

- (1) Section 551.002 specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; and
- (2) Section 554.051 gives the Board the authority to adopt rules for the proper administration and enforcement of the Act.

Purpose: The amendments, if adopted, update the definitions to include CPE Monitor and to be consistent with ACPE definitions; remove references to requirements regarding pharmacists licensed for 50 years that are not needed; allow pharmacist to receive credit for CME courses; and require pharmacists to obtain at least one hour of CE in Texas pharmacy law.

Background: The Board discussed continuing education requirements at the August 7, 2012, meeting and directed staff to draft proposed language updating the CE requirements.

The Board reviewed and voted to propose the amendments during the November 6, 2012, meeting. The proposed amendments were published in the December 14, 2012, issue of the *Texas Register* at 37 TexReg 9737.

(b) Owner. The owner of a Class A pharmacy shall have responsibility for all administrative and operational functions of the pharmacy. The pharmacist-in-charge may advise the owner on administrative and operational concerns. The owner shall have responsibility for, at a minimum, the following, and if the owner is not a Texas licensed pharmacist, the owner shall consult with the pharmacist-in-charge or another Texas licensed pharmacist:

(1) (No change.)

(2) establishment of policies [policies] and procedures for the security of the prescription department including the maintenance of effective controls against the theft or diversion of prescription drugs;

(3) - (5) (No change.)

(c) Pharmacists.

(1) General.

(A) - (D) (No change.)

(E) All pharmacists, while on duty, shall be responsible for the legal operation of the pharmacy and for complying with all state and federal laws or rules governing the practice of pharmacy.

(F) (No change.)

(2) Duties. Duties which may only be performed by a pharmacist are as follows:

(A) - (B) (No change.)

(C) selecting [selection of] drug products;

(D) - (J) (No change.)

(3) (No change.)

(d) Pharmacy Technicians and Pharmacy Technician Trainees.

(1) (No change.)

(2) Duties.

(A) - (B) (No change.)

(C) Pharmacy technicians and pharmacy technician trainees may perform only nonjudgmental technical duties associated with the preparation and distribution of prescription drugs, as follows:

(i) - (ix) (No change.)

(x) compounding bulk preparations [bulk compounding].

(3) (No change.)

(e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 30, 2012.

TRD-201206163

Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

Earliest possible date of adoption: January 13, 2013

For further information, please call: (512) 305-8028



CHAPTER 295. PHARMACISTS

22 TAC §295.8

The Texas State Board of Pharmacy proposes amendments to §295.8, concerning Continuing Education Requirements. The amendments, if adopted, update the definitions to include CPE Monitor and to be consistent with ACPE definitions; remove references to requirements regarding pharmacists licensed for 50 years that are not needed; allow pharmacist to receive credit for CME courses; and require pharmacists to obtain at least one hour of CE in Texas pharmacy law.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the rule will be to update and clarify definitions and CE requirements for pharmacists. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Comments on the proposed amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., January 31, 2013.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§295.8. Continuing Education Requirements.

(a) Authority and purpose.

(1) Authority. In accordance with §559.053 [§559.003] of the Texas Pharmacy Act, (Chapters 551 - 566, and 568 - 569, Occupations Code), all pharmacists must complete and report 30 contact hours (3.0 CEUs) of approved continuing education obtained during the previous license period in order to renew their license to practice pharmacy.

(2) (No change.)

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (3) (No change.)

(4) Approved provider--An individual, institution, organization, association, corporation, or agency that is approved by the board [and recognized by ACPE in accordance with its policy and procedures, as having met criteria indicative of the ability to provide quality continuing education programs].

(5) (No change.)

(6) Certificate of completion--A certificate or other official document presented to a participant upon the successful completion of an approved [a] continuing education program. [Certificates presented

by an ACPE approved provider must contain the following information:}]

~~[(A) name of the participant;]~~

~~[(B) title and date of the program;]~~

~~[(C) name of the approved provider sponsoring or cosponsoring the program;]~~

~~[(D) number of contact hours and/or CEUs awarded;]~~

~~[(E) the assigned ACPE universal program number, and for CE obtained on or after January 1, 2009, a "P" designation indicating that the CE is targeted to pharmacists;]~~

~~[(F) a dated certifying signature of the approved provider; and]~~

~~[(G) the official ACPE logo.]~~

(7) Contact hour--A unit of measure of educational credit which is equivalent to approximately [50 to] 60 minutes of participation in an organized learning experience.

(8) (No change.)

(9) CPE Monitor--A collaborative service from the National Association of Boards of Pharmacy and ACPE that provides an electronic system for pharmacists to track their completed CPE credits.

~~(10) [(9)] Credit hour--A unit of measurement for continuing education equal to 15 contact hours.~~

(11) Enduring Materials (Home Study)--Activities that are printed, recorded or computer assisted instructional materials that do not provide for direct interaction between faculty and participants.

~~[(10) Home-study and other mediated instruction--Continuing education activities that are not conducted as live programs, including audiotapes, videotapes, cable television, computer assisted instruction, journal articles, or monographs.]~~

(12) ~~[(11)]~~ Initial license period--The time period between the date of issuance of a pharmacist's license and the next expiration date following the initial 30 day expiration date.

(13) ~~[(12)]~~ License period--The time period between consecutive expiration dates of a license.

(14) ~~[(13)]~~ Live programs--Activities that provide for direct interaction between faculty and participants and may include lectures, symposia, live teleconferences, workshops, etc. ~~[On-site continuing education activities including lectures, symposia, live teleconferences, or workshops.]~~

(15) ~~[(14)]~~ Standardized pharmacy examination--The North American Pharmacy Licensing Examination (NAPLEX).

(c) Methods for obtaining continuing education. A pharmacist may satisfy the continuing education requirements by either:

(1) (No change.)

(2) successfully completing during the preceding license period, one credit hour for each year of their license period, which is a part of the professional degree program in a college of pharmacy the professional degree program of which has been accredited by ACPE; or

(3) taking and passing the standardized pharmacy examination (NAPLEX) during the preceding license period, which shall be equivalent to the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section. ~~[; or]~~

~~[(4) having a Texas pharmacist license issued by examination or reciprocity within the previous thirty (30) months.]~~

(d) Reporting Requirements.

(1) Renewal of a pharmacist license. To renew a license to practice pharmacy, a pharmacist must report on the renewal application completion of at least thirty contact hours (3.0 CEUs) ~~[the required number of contact hours]~~ of continuing education. The following is applicable to the reporting of continuing education contact hours.

(A) For renewals received after January 1, 2014, at least one contact hour (0.1 CEU) specified in paragraph (1) of this subsection shall be related to Texas pharmacy laws or rules. ~~[The renewal application issued by the board shall state the number of contact hours the pharmacist must complete in order to be eligible to renew the license.]~~

(B) (No change.)

(2) Failure to report completion of required continuing education. ~~[The license of a pharmacist who fails to report completion of the required number of continuing education contact hours shall not be renewed and the pharmacist shall not be issued a renewal certificate for the license period. A pharmacist who practices pharmacy without a current renewal certificate is subject to all penalties of practicing pharmacy without a license.]~~ The following is ~~[also]~~ applicable if a pharmacist fails to report completion of the required continuing education.

(A) The license of a pharmacist who fails to report completion of the required number of continuing education contact hours shall not be renewed and the pharmacist shall not be issued a renewal certificate for the license period ~~[The pharmacist's license shall not be renewed]~~ until such time as the pharmacist successfully completes the required continuing education and reports the completion to the board.

(B) A pharmacist who practices pharmacy without a current renewal certificate is subject to all penalties of practicing pharmacy without a license including ~~[The pharmacist shall be subject to]~~ the delinquent fees specified in the Act, §559.003.

(3) Extension of time for reporting. A pharmacist who has had a physical disability, illness, or other extenuating circumstances which prohibits the pharmacist from obtaining continuing education credit during the preceding license period may be granted an extension of time to complete the continued education requirement. The following is applicable for this extension:

(A) The pharmacist shall submit a petition to the board with his/her license renewal application which contains:

(i) the name, address, and license number of the pharmacist;

(ii) a statement of the reason for the request for extension; ~~[which includes the dates the pharmacist was incapacitated; and]~~

(iii) if the reason for the request for extension is health related, a statement from the attending physician(s) treating the pharmacist which includes the nature of the physical disability or illness and the dates the pharmacist was incapacitated; and [-]

(iv) if the reason for the request for the extension is for other extenuating circumstances, a detailed explanation of the extenuating circumstances and if because of military deployment, documentation of the dates of the deployment.

(B) - (D) (No change.)

(4) Exemptions from reporting requirements.

(A) (No change.)

(B) Pharmacists who are not actively practicing pharmacy shall be granted an exemption to the reporting requirements for continuing education provided the pharmacists submit a completed renewal application for each license period which states that they are not practicing pharmacy. Upon submission of the completed renewal application, the pharmacist shall be issued a renewal certificate which states that pharmacist is inactive. Pharmacists who wish to return to the practice of pharmacy after being exempted from the continuing education requirements as specified in this subparagraph must:

(i) notify the board of their intent to actively practice pharmacy;

(ii) pay the fee as specified in §295.9 of this title (relating to Inactive License); and

(iii) provide copies of completion certificates from approved continuing education programs as specified in subsection (e) of this section for 30 contact hours (3.0 CEUs). Approved continuing education earned within two years prior to the licensee applying for the return to active status may be applied toward the continuing education requirement for reactivation of the license but may not be counted toward subsequent renewal of the license.

~~{(B) Pharmacists who have been licensed for 50 years are subject to the following-}~~

~~{(i) Pharmacists who are actively practicing pharmacy shall complete the continuing education requirements in order to renew their license-}~~

~~{(ii) Pharmacists who are not actively practicing pharmacy shall be granted an exemption to the reporting requirements for continuing education provided the pharmacists submit a completed renewal application for each license period which states that they are not practicing pharmacy. Upon submission of the completed renewal application, the pharmacist shall be issued a renewal certificate which states that pharmacist is inactive-}~~

~~{(iii) Pharmacists who wish to return to the practice of pharmacy after being exempted from the continuing education requirements as specified in clause (ii) of this subparagraph must:}~~

~~{(i) notify the board of their intent to actively practice pharmacy-}~~

~~{(ii) pay the licensing fee as specified in §295.5 of this title (relating to Pharmacist License or Renewal Fees); and}~~

~~{(iii) provide copies of completion certificates from approved continuing education programs as specified in subsection (e) of this section for 30 hours. Approved continuing education earned within two years prior to the licensee applying for the return to active status may be applied toward the continuing education requirement for reactivation of the license but may not be counted toward subsequent renewal of the license-}~~

(e) Approved Programs.

(1) Any program presented by an ACPE approved provider subject to the following conditions.

(A) - (B) (No change.)

(C) Proof of completion of an ACPE course shall contain the following information: ~~[be a certificate of completion as defined by subsection (b)(6) of this section.]~~

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) the assigned ACPE universal program number and a "P" designation indicating that the CE is targeted to pharmacists; and

(vi) either:

(I) a dated certifying signature of the approved provider and the official ACPE logo; or

(II) the CPE Monitor logo.

(2) - (7) (No change.)

(8) Attendance at programs presented by the Texas State Board of Pharmacy or courses offered by the Texas State Board of Pharmacy as follows:

(A) Pharmacists shall receive credit for the number of hours for the program or course as stated by the Texas State Board of Pharmacy.

(B) Proof of attendance at a program presented by the Texas State Board of Pharmacy or completion of a course offered by the Texas State Board of Pharmacy shall be a certificate issued by the Texas State Board of Pharmacy.

(9) Pharmacists shall receive credit toward their continuing education requirements for programs or courses approved by other state boards of pharmacy as follows:

(A) Pharmacists shall receive credit for the number of hours for the program or course as specified by the other state board of pharmacy.

(B) Proof of attendance at a program or course approved by another state board of pharmacy shall be a certificate or other documentation that indicates:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) a dated certifying signature of the provider; and

(vi) documentation that the program is approved by the other state board of pharmacy.

(10) [(8)] Completion of an Institute for Safe Medication Practices' (ISMP) Medication Safety Self Assessment for hospital pharmacies or for community/ambulatory pharmacies shall be recognized for continuing education credit as follows.

(A) Pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for completion of an ISMP Medication Safety Self Assessment.

(B) Proof of completion of an ISMP Medication Safety Self Assessment shall be:

(i) a continuing education certificate provided by an ACPE approved provider for completion of an assessment; or

(ii) a document from ISMP showing completion of an assessment.

(11) [(9)] Pharmacists shall receive credit for three contact hours (0.3 CEUs) toward their continuing education requirements for taking and successfully passing the initial Geriatric Pharmacy Practice certification examination administered by the Commission for Certification in Geriatric Pharmacy. Proof of successfully passing the examination shall be a certificate issued by the Commission for Certification in Geriatric Pharmacy.

(12) [(10)] Pharmacist shall receive credit for three contact hours (0.3 CEUs) toward their continuing education requirements for taking and successfully passing an initial Board of Pharmaceutical Specialties certification examination administered by the Board of Pharmaceutical Specialties. Proof of successfully passing the examination shall be a certificate issued by the Board of Pharmaceutical Specialties.

(13) Programs approved by the American Medical Association (AMA) as Category 1 Continuing Medical Education (CME) and accredited by the Accreditation Council for Continuing Medical Education subject to the following conditions.

(A) Pharmacists may receive credit for the completion of the same CME course only once during a license period.

(B) Pharmacists who present approved CME programs may receive credit for the time expended during the actual presentation of the program. Pharmacists may receive credit for the same presentation only once during a license period.

(C) Proof of completion of a CME course shall contain the following information:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

and (iv) number of contact hours and/or CEUs awarded;

and (v) a dated certifying signature of the approved provider.

[(11) Attendance at programs presented by the Texas State Board of Pharmacy or courses offered by the Texas State Board of Pharmacy as follows:]

[(A) Pharmacists shall receive credit for the number of hours for the program or course as stated by the Texas State Board of Pharmacy.]

[(B) Proof of attendance at a program presented by the Texas State Board of Pharmacy or completion of a course offered by the Texas State Board of Pharmacy shall be a certificate issued by the Texas State Board of Pharmacy.]

[(12) Pharmacists shall receive credit toward their continuing education requirements for programs or courses approved by other state boards of pharmacy as follows:]

[(A) Pharmacists shall receive credit for the number of hours for the program or course as specified by the other state board of pharmacy.]

[(B) Proof of attendance at a program or course approved by another state board of pharmacy shall be a certificate or other documentation that indicates:]

[(i) name of the participant;]

[(ii) title and date of the program;]

[(iii) name of the approved provider sponsoring or cosponsoring the program;]

[(iv) number of contact hours and/or CEUs awarded;]

[(v) a dated certifying signature of the provider; and]

[(vi) documentation that the program is approved by the other state board of pharmacy.]

[(13) Upon demonstrated need the board may establish criteria to approve programs presented by non-ACPE approved providers.]

(f) Retention of continuing education records and audit of records by the board.

(1) Retention of records. Pharmacists are required to maintain certificates of completion of approved continuing education for three years from the date of reporting the contact hours on a license renewal application. Such records may be maintained in hard copy or electronic format.

(2) (No change.)

[(g) Reinstatement of pharmacist's license.]

[(1) Any person seeking reinstatement of a license which has been revoked or canceled by the board shall submit documentation of completion of the required number of continuing education contact hours for all years the license has been revoked or canceled prior to reinstatement of the license.]

[(2) Persons who seek reinstatement of a pharmacist license which has expired shall meet the requirements of §283.10 of this title (relating to Requirements for Application for a Pharmacist License Which Has Expired).]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 30, 2012.

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Gay Dodson, R.Ph.

Executive Director/Secretary

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8028



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 2. EMERGENCY PREPAREDNESS

25 TAC §2.1

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), proposes an amendment to §2.1, concerning the Preparedness Coordinating Council (PCC).

BACKGROUND AND PURPOSE